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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,893	11/13/2003	Dae-Sung Han	1594.1295	6097
21171	7590	09/24/2004		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER	COCKS, JOSIAH C
			ART UNIT	PAPER NUMBER
				3749

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/705,893	HAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Josiah Cocks	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 13 November 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-18 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 13 November 2003 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/13, 3/4, 7/15.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the air inlet and outlet integrally formed in a single ventilation hole (see claim 18) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has not illustrated or described sufficiently what shape or structure a cover having a single ventilation hole to ventilate air into and out of the cooking space. Applicant merely indicates on page 7, paragraph 0037 of the specification that the holes may be formed as a single hole but does not provide an enabling disclosure as to how this is accomplished. Is the hole formed on the side or the top of the cover? What position and shape does the hole have? How does the single hole function as an inlet and outlet?

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-6 and 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,508,024 to Perkins (“Perkins”) in view of U.S. Patent No. 6,125,838 to Hedgpeth (“Hedgpeth”).

Perkins discloses in Figures 1-7 a cooking apparatus similar to that described in applicant’s claims 1-6 and 9-18. In particular, Perkins shows at least one heating unit (71), a grill unit (76) and a cover (62) defining a cooking space thereunder and having an air ventilation structure (64) located in a top portion of the cover to ventilate air out of the cooking space (see Fig. 5). In regard to the recitation of the claims that the air outlet holes range from 5% to 25% of an effective area of the grill unit, as shown in Figs. 4 and 5 the air ventilation holes appear to lie within this recited range. However, even if the area of these holes is not considered to be in the recited range, it is noted that Perkins specifically discloses that the amount of ventilation is selectable to control the rate of cooking and amount of smoke exhausted (see col. 6, lines 1-13 and prior discussion of exhaust ports 43, col. 4, lines 49-68). Therefore, to have selected a specific percentage of outlet area would be simply a matter of optimizing the exhaust port size of

the prior art outlets of Perkins obtainable through routine experimentation and is not considered to be patentably distinct. See MPEP § 2144.05(II)(A).

Perkins possibly does not disclose an air ventilation structure to ventilate air into the cooking space that is located on the cover and specifically a side portion of the cover

Hedgpeth teaches a cooking apparatus that is analogous to that of Perkins. In Hedgpeth, adjustable intake air ventilation ports (76) are located on the side of a cover (24) of the cooking apparatus. In regard to claim 18, Hedgpeth notes that the ports function as both air inlets and outlets (see col. 7, lines 3-5). Therefore, the limitation that the inlet and air outlet are integrally formed in a single ventilation hole is considered met by each orifice of the ventilation ports, which functions as an inlet and air outlet.

In regard to the limitations of the claims that the air ventilation structure allows the temperature of the cooking space to be maintained below 260 degrees C., both Perkins and Hedgpeth teach that their ventilation holes are adjusted to control the temperature of the cooking space (see Perkins, col. 4, lines 51-52 and Hedgpeth, col. 7, lines 3-6). Therefore, to have selected a specific temperature to maintain the cooking space at would be simply a matter of optimizing the temperature adjustment of the prior art obtainable through routine experimentation and is not considered to be patentably distinct. See MPEP § 2144.05(II)(A).

Therefore, in regard to claims 1-6 and 9-17, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cover of Perkins to incorporate the air intake ventilation holes of Hedgpeth allow for regulation of the air intake to desirably control cooing chamber temperature as desired (see Hedgpeth, col. 7, lines 3-11).

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,189,945 to Hennick (“Hennick”) (cited by applicant) in view of U.S. Patent No. 6,125,838 to Hedgpeth (“Hedgpeth”).

Hennick discloses in Figures 1-17 a cooking apparatus similar to recited in applicant’s claim 7. In particular, Hennick shows a cooking apparatus comprising a heating unit (2), and a grill unit having a plurality of grilling pipes (12) communicating with a pair of water (19) tanks to allow flow of water through the pipes (see col. 5, lines 17-42).

Hedgpeth teaches a cooking apparatus analogous to that of Hennick. In Hedgpeth, a cover (24) is included with at least one ventilation hole (76).

Therefore, in regard to claim 7, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cooking apparatus of Hennick to incorporate the cover of Hedgpeth as the cover desirably allows for temperature control and protection of food from the elements (see Hedgpeth, col. 6, lines 46-48).

8. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by UK Patent No. 2 286 111 (“111 patent”) (cited by applicant) in view of U.S. Patent No. 6,125,838 to Hedgpeth (“Hedgpeth”).

The ‘111 patent discloses in Figures 1-7 a cooking apparatus similar to recited in applicant’s claim 8. In particular, the ‘111 patent shows a cooking apparatus comprising at least one heating unit (23), a grill unit (14), and a heat-reflecting unit (24) that contains water to prevent materials dropping from the food being burned (see item 15 and page 2, lines 6-9).

The ‘111 patent does not disclose a cover with at least one ventilation hole.

Hedgpeth teaches a cooking apparatus analogous to that of the '111 patent. In Hedgpeth a cover (24) is included with at least one ventilation hole (76).

Therefore, in regard to claim 8, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cooking apparatus of the '111 patent to incorporate the cover of Hedgpeth as the cover desirably allows for temperature control and protection of food from the elements (see Hedgpeth, col. 6, lines 46-48).

***Conclusion***

9. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents to Paspalas, Giordani et al., Hait, Owens et al., and French Patent No. 2724833 are included to further show the state of the art concerning combustion devices with ventilated covers.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc  
September 22, 2004

  
JOSIAH COCKS  
PRIMARY EXAMINER  
ART UNIT 3749